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Battle Mountain District
Battle Mountain, Nevada

February 3, 1997



Ruby Hill Project
Record of Decision and
Plan of Operations Approval



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BLM MISSION STATEMENT

The Bureau of Land Management is responsible for the stewardship of our public lands. It is committed to manage, protect, and improve these lands in a manner to serve the needs of the American people for all times.

Management is based upon the principles of multiple use and sustained yield of our nation's resources within a framework of environmental responsibility and scientific technology. These resources include recreation, rangelands, timber, minerals, watershed, fish and wildlife, wilderness, air and scenic, scientific, and cultural values.

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Cover: *Post-reclamation topography at the proposed Ruby Hill Mine based on a digital elevation computer model. View is from the northwest looking southeast.*

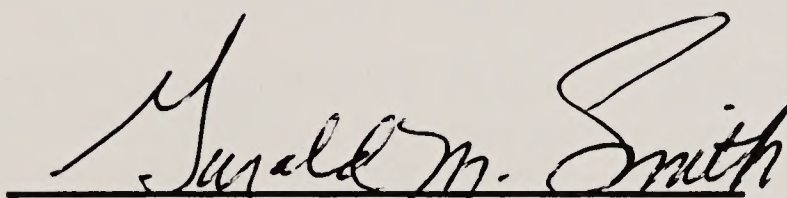
RECORD OF DECISION AND PLAN OF OPERATIONS APPROVAL

Ruby Hill Project

N64-95-001P
NV64-EIS96-33

U.S. Department of the Interior
Bureau of Land Management
Battle Mountain District
Battle Mountain, Nevada 89820

Approved by:



Gerald M. Smith
District Manager

FEB 03 1997

Date

Record of Decision

Ruby Hill Project NV64-EIS96-33

Summary

The decision of the District Manager, Battle Mountain District of the Bureau of Land Management (BLM) is to select the Proposed Action, as identified in the Ruby Hill Project *Plan of Operations*, in combination with the Partial Backfilling Alternative, Environmental Protection Measures, Mitigation Measures, and Monitoring requirements analyzed in the Ruby Hill Project Final Environmental Impact Statement (EIS). This decision allows the District Manager to approve the development of the proposed mine and gold extraction facilities to be known as the Ruby Hill Project. The selected alternatives were identified in the Final EIS as the Agency Preferred Alternative.

Implementation of this decision with the identified environmental protection and mitigation measures will not cause undue or unnecessary degradation of the public lands. All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted. There were no measures identified to avoid or reduce environmental harm that were not selected to be part of this decision. Monitoring will be established to allow further refinement of the mitigation measures. All mitigation measures and monitoring requirements will be implemented and enforced.

The analysis of alternatives in the Draft and Final EISs consisted of the Proposed Action, the East Waste Rock Dump Alternative, the West Waste Rock Dump Alternative, the Partial Backfilling Alternative, and the No Action Alternative. Also, alternatives to completely backfill the pit, reslope the pit highwalls to facilitate reclamation, and utilize underground mining were considered and eliminated from detailed analysis.

Decision

The decision of the District Manager, Battle Mountain District of the Bureau of Land Management (BLM) is to select the Proposed Action, as identified in the Ruby Hill Project *Plan of Operations*, in combination with the Partial Backfilling Alternative, environmental protection measures, mitigation measures, and monitoring requirements analyzed in the Ruby Hill Project Final Environmental Impact Statement (EIS). The selected alternatives were identified in the Final EIS as the Agency Preferred Alternative.

Proposed Action and Alternatives

The EIS analyzes the direct, indirect, cumulative, and residual environmental impacts of the Proposed Action and four alternative scenarios: 1) the East Waste Rock Dump Alternative; 2) the West Waste Rock Dump Alternative; 3) the Partial Backfilling Alternative; and 4) the No Action Alternative. These alternatives are described in the following sections.

Alternatives Considered in Detail

Proposed Action

Homestake Mining Company (Homestake) proposes to initiate gold mining operations within the historic Eureka Mining District in Eureka County, 0.7 mile northwest of Eureka, Nevada (see Chapter 1.0 of the Final EIS, Map 1-1). The Proposed Action would include surface disturbance associated with mine development on a total of 696 acres, of which 689 acres are public land administered by the BLM and 7 acres are private land. Approximately 60 million tons of waste rock and approximately 8 million tons of ore would be removed during mine operations.

The proposed Ruby Hill Project includes an open pit; two waste rock disposal sites; a crushing, grinding, and agglomeration facility; a solution processing facility; heap leaching facilities; and ancillary facilities including the office building and parking lot, warehouse/shop, access and haul roads, growth media stockpiles, a soil borrow source, diversion ditches, and powerline and water pipeline corridors. The dimensions for the East Waste Rock Dump would be 7,000 feet long and 1,200 feet wide and the dimensions for the West Waste Rock Dump would be 2,500 feet long and 2,100 feet wide. The anticipated life for the active mining phase of the Ruby Hill Project would be 7.5 years. Final reclamation is anticipated to be completed by 2010.

As requested by the Nevada Department of Transportation, there will be a change to the location of the Ruby Hill Project main access road from that which is described in the Final EIS. The main access road will now intersect Highway 50 at the intersection of Highway 278; then proceed southwest to the section corner common to T. 20 N., R. 53 E., Sections 33 and 34, and T. 19 N., R. 53 E., Section 3; then proceed southeast to the mine area. The environmental impacts associated with this minor change to the location of the access road are essentially the same as those that have been previously analyzed in the Final EIS. Therefore, no new analysis is required.

East Waste Rock Dump Alternative

The East Waste Rock Dump Alternative would involve placing all waste rock in one dump with a capacity of 60 million tons. The dump would be located on the east side of the mine complex. The waste rock dump would cover 360 acres and the approximate dimensions of the dump would be 5,300 feet long by 3,000 feet wide. Surface disturbance associated with other project components would be the same as the Proposed Action, except surface disturbance associated with haul road construction is not associated with this Alternative. Total surface disturbance would be 715 acres.

West Waste Rock Dump Alternative

The West Waste Rock Dump Alternative also would involve placing all waste rock in one dump with a capacity of 60 million tons. The dump would be located on the west side of the mine complex. The waste rock dump would cover 214 acres and the approximate dimensions of the dump would be 4,300 feet long by 2,000 feet wide. Surface disturbance associated with other project components would be the same as the Proposed Action, except construction of the solid waste landfill would disturb an additional 4 acres. A total of 577 acres would be disturbed.

Partial Backfilling Alternative

Partial backfilling of the mine pit would occur in an area where potential mineral resources would not be affected and backfilling offers cost advantages. Homestake's current design for this alternative includes one potential backfilling area located in the northwest portion of the mine pit. Approximately 3 million tons of waste rock material would be removed from the eastern portion of the mine pit and placed in the northwestern portion of the pit without affecting the potential future development of additional mineral resources. This alternative would have a reclaimable surface of approximately 6 acres, which would be revegetated after mine development and operation. Total surface disturbance (696 acres) would be the same as the Proposed Action. However, this alternative would result in the revegetation of approximately 6 acres more than the Proposed Action.

No Action Alternative

Under the No Action Alternative, gold mining at the Ruby Hill Project would not occur. Mineral resources in the deposit areas would remain undeveloped, and no construction of the pit, waste rock dumps, leach pad, or gold recovery facilities would occur.

Alternatives Eliminated from Detailed Analysis

Alternatives to completely backfill the pit, reslope the pit highwalls to facilitate reclamation, and utilize underground mining were initially considered and subsequently eliminated from detailed analysis. A description of each of the alternatives and rationale for their elimination from detailed analysis are included in the Ruby Hill Project Final EIS.

Environmentally Preferable Alternative

40 Code of Federal Regulations 1505.2 requires that the Record of Decision for a Federal action identify the "environmentally preferable" alternative(s). Because mining is, by nature, disruptive to the resources in the immediate area being mined, all of the "action" alternatives result in new disturbance. The environmentally preferable alternative, then, is the No Action Alternative. Of the action alternatives, the West Waste Rock Dump Alternative is likely the environmentally preferable alternative. The BLM's preferred alternative, however, is to implement the Proposed Action in combination with the Partial Backfilling Alternative. This combination was selected because the Proposed Action will allow maximum operational flexibility by providing Homestake with two locations for the disposal of waste rock, and the Partial Backfilling Alternative will reduce the amount of waste rock placed in dumps by 3 million tons and will increase the surface area to be revegetated by 6 acres.

Management Considerations

The rationale for the above decision is promulgated through the surface mining regulations (43 Code of Federal Regulations 3809), the Federal Land Policy and Management Act of 1976, and the Mining Law of 1872. The *Plan of Operations* has been properly analyzed under the Council on Environmental Quality implementing regulations for the National Environmental Policy Act of 1969. Selection of the Proposed Action together with the Partial Backfilling Alternative will allow Homestake Mining Company to make legitimate use of the public lands without causing undue or unnecessary degradation.

The Ruby Hill Project is located in an area within the Battle Mountain District where mining has been identified as an appropriate land use that is in conformance with the Shoshone-Eureka Resource Management Plan. The mine area is not included in any areas of designated national, regional, or local significance. Mining, by law, is a valid use of the public lands, which is inherently site-specific and does not lend itself to relocation.

The BLM and Homestake Mining Company have collaborated to mitigate environmental impacts that may result from the project. The environmental protection measures and the mitigation measures outlined below will minimize the adverse environmental impacts identified in the Final EIS. The monitoring requirements of the *Plan of Operations* and Final EIS will assist Homestake, the BLM, and others in identifying, mitigating, or avoiding any unforeseen environmental impacts that may occur. The monitoring will provide periodic opportunities for the BLM to refine and modify the mitigation measures.

The BLM, in coordination with the Nevada Division of Environmental Protection, has determined that a reclamation bond amount of \$7,071,200.00 is required for the surface reclamation of the proposed facilities at the Ruby Hill Project. This reclamation bond will cover such items as removal of buildings and other salvageable materials, detoxification of the heap leach pad, recontouring of slopes, placement of growth media, and revegetation.

All required Federal, State of Nevada, and local government permits must be in place before construction and operations commence.

Environmental Protection Measures

During construction and operation of the Ruby Hill Project, measures will be taken to minimize impacts to air, land, and water resources and to prevent undue or unnecessary degradation of the environment within and around the project area. Protection measures will be taken to comply with all appropriate Federal and state air quality and water quality standards and solid waste disposal requirements. All project-related roads will be constructed and maintained to provide adequate drainage and to minimize damage to soil and water resources.

The following section presents environmental protection measures Homestake has proposed in their Plan of Operations to implement as standard operating procedures for the Ruby Hill Project. This Record of Decision expressly incorporates each of the following environmental protection measures.

Water Management and Sediment Control

Erosion control techniques will be employed during project construction, operation, and closure to control sediment and surface water runoff around areas of surface disturbance. Sediment control measures will be employed during construction when soils are disturbed as a part of clearing and grubbing activities, during operations in areas that are subject to sediment transport, and as necessary during reclamation.

Runoff from undisturbed areas will be diverted around all surface disturbance areas by ditches or berms. Permanent diversion systems will be designed and constructed to divert flows from the 100-year/24-hour storm event. Appropriate measures will be taken to assure that the Eureka County water line and the Hogpen Canyon road will not be adversely affected by storm drainage in the east diversion ditch. Temporary diversions shall be designed to divert the flows from the 10-year/24-hour storm event.

Non-point source sediment control measures will consist of practices such as: minimizing the number and size of soil disturbance areas, concurrent reclamation when feasible, intercepting and treating runoff from disturbed areas to prevent sediment from leaving the site, and diversion of all runoff from undisturbed areas around areas of disturbance. No surface disturbing activities shall commence until provisions for erosion and sediment control have been reviewed by Homestake and have been implemented.

Berms and diversion ditches will exclude runoff from road surfaces. Settling basins will be constructed in the ditches, or straw bales or silt fences will be placed in the ditches to control sediment. Culverts sized to meet BLM standards will be installed for road drainage. Sediment control structures such as storm water dispersion terraces, silt fences, gabion sediment traps, grass filter waterways, or straw bale barriers, will be placed, as needed, to minimize road runoff on the undisturbed areas. Surface disturbance associated with road building will be seeded to minimize the sediment transport from disturbed areas. Road revegetation techniques will consist of broadcast seeding and fertilizing. Seed may be drilled rather than broadcasted depending on the results of the test plot program which will evaluate various seeding techniques. If the seed is drilled, the seeding rate and mixture will be adjusted accordingly.

Based on groundwater flow data, 3 additional monitoring wells will be established. The locations of these wells will be: 1) approximately 1,500 feet due north of the proposed solution overflow ponds,

2) 1,200 feet northwest of the West Waste Rock Dump, and 3) 1,000 feet down gradient from the mine pit. These additional monitoring wells will monitor down gradient groundwater quality from the East Waste Rock Dump, solid waste landfill, and heap leach pad; down gradient groundwater quality from the West Waste Rock Dump; and down gradient groundwater quality from the open pit. There will be a total of seven groundwater monitoring wells associated with the Ruby Hill Project.

Acid Rock Drainage

Results of initial geochemical testing conducted on representative samples of waste rock indicate that all of the material in the West Archimedes pit has a net acid neutralizing capacity. To verify these results, Homestake will conduct a waste rock and overburden testing program during project operations. A basic testing program is presented in the Preliminary Environmental Monitoring Plan in the Plan of Operations. Specific testing procedures are contained in the State of Nevada Water Pollution Control Permit.

Spill Prevention Planning

Spill prevention measures and contingency plans for containing accidental spills, and for preventing uncontrolled discharges to the environment, have been developed for the project as required by Federal and state laws and regulations. Protection measures are designed for the fuel storage, heap leach, and processing facility areas to ensure that spills of fuel and reagents are contained, collected, and reintroduced into the process stream or safely disposed of in accordance with all appropriate Federal and state regulations.

A Spill Prevention, Control, and Countermeasures Plan has been prepared as required by 40 Code of Federal Regulations 112 for fuel, oil, and oil refuse storage facilities, and is presented in the Plan of Operations. This plan has been prepared in accordance with good engineering practices and describes in detail the measures to be taken to prevent the escape of pollutants from containment facilities and to ensure subsequent cleanup as necessary for petroleum products. Homestake will routinely review all storage and containment facilities to ensure they are maintained to adequately contain spills.

State of Nevada regulations governing the design, construction, operation, and closure of mining operations (Nevada Administrative Code 445A.242 through 445A.24388) require the preparation of a plan for an Emergency Response and Contingency Plan that describes procedures and methods to be implemented for the abatement and cleanup of any pollutant that may escape proper containment at the facility. A preliminary Emergency Response and Contingency Plan is presented in the Plan of Operations and will govern spill response for the heap leach, crushing, grinding, agglomeration, process plant, and reagent storage facilities. Generally, the process system will be designed so that any solution spills drain to a collection area where spillage can return to the system. Collection ditches from the leach pad and the solution ponds will be designed to accommodate predicted maximum run-off volumes. The total interconnected storage capacity of the solution ponds would be adequate to contain design storm events and maintain adequate operating freeboard capacity.

Stability of Facilities

Facilities including the waste rock dumps and the heap leach pad will be designed to be stable during operations and following project closure. Stability modeling results for the heap leach pad and the waste rock dump are contained in the application for the State of Nevada Water Pollution Control and Reclamation Permits. Results of the heap leach and waste rock dump stability modeling also are contained in the Final Plan of Operations. In addition, these facilities will be visually monitored on a regular basis during operations to identify any visible stability problems.

Wildlife and Livestock Protection

The project has been designed to incorporate a number of measures for the protection of wildlife and livestock during construction and operation. Measures have been incorporated into the facilities' design to reduce the attraction and to discourage entry into hazardous areas. These features include:

- Barbed wire fencing will be constructed along the perimeter of the mine site operations area to exclude livestock. An 8-foot chain-link fence will be constructed around the solution overflow pond and storm-event pond to exclude wildlife. In addition, the process solution overflow pond will be netted or covered to prevent bird and bat mortality.
- Tanks will be used to contain normal process flows.
- Project waste will be properly managed and the site monitored to control garbage that could attract wildlife.
- Heap leach pregnant solution will be collected in pipes to minimize bird and bat mortality from open process solution channels.
- Power transmission and distribution line towers constructed to service the proposed facilities will be designed to avoid raptor electrocutions.

In addition, Homestake will monitor wildlife mortality on the general mine site and report all mortalities to the BLM and the Nevada Division of Wildlife as required by Federal and state approvals and permits for the project. As part of this monitoring process, Homestake will monitor the heap leach top for any pooling of cyanide solutions. If necessary, Homestake will implement appropriate procedures to eliminate pooling.

Range

All range fences included in the Ruby Hill Project will be constructed to BLM standards to exclude cattle from the project area and to avoid adverse effects to the range or grazing cattle. Homestake will maintain these fences during operation and reclamation of the project. Fences will be constructed to avoid injury to wildlife. Homestake will meet with the BLM and any other interested parties, when necessary, to discuss range issues and possible modifications or supplements to the Plan of Operations. The BLM has final authority for rangeland management on Public Land.

Homestake will utilize certified weed-free mulch and seed mixtures to reclaim disturbed areas.

Visual Resources

Homestake has designed and located project facilities to minimize, to the extent possible, short-term visual impacts. Measures that Homestake will undertake to minimize visual impacts are:

- Buildings will be painted in earth-toned colors (as approved by the BLM) to blend with the predominant background;
- Water and dust inhibiting agents shall be employed as needed to reduce the potential visual impact of fugitive dust during the operational period;
- At the conclusion of operations, Homestake will remove all operating facilities including structures, equipment, and transmission lines in conformance with reclamation plan requirements;
- Revegetation of the reclaimed project facilities, including trial plantings of piñon and juniper seedlings on the waste rock dumps to reduce visual impacts;
- A concurrent reclamation program will be implemented in accordance with the reclamation section of the Plan of Operations; and
- Reclaimed waste rock slopes will be approximately 3H:1V.

Air Quality

Homestake will obtain the required air quality permits for the project from the Nevada Division of Environmental Protection, Bureau of Air Quality for those activities regulated by the State of Nevada air quality laws. The air quality permit will not allow exceedences of state air quality standards and will specify required controls. Homestake will incorporate the following measures into the project design to control the generation of PM₁₀ particulates.

- The main access and haul roads within the site boundary will be surfaced with durable gravel and will be well maintained.
- Water or surface binding agents will be applied to haul and access roads within the site boundary as needed; Homestake will consult with the BLM regarding surface binding agents to be applied to roads.
- Speed restrictions will be enforced on mine roads to minimize particulate emissions from roadways.
- Dust control measures, including watering, chemical stabilization, and other controls approved by the Nevada Bureau of Air Quality, will be implemented during mine operation to reduce the amount of fugitive dust.

- The crushers, screens, and all transfer points will be enclosed or shrouded to minimize exposure to wind and will use baghouses or equivalent to control dust emissions.
- Revegetation efforts for completed portions of the project will be initiated during the operational period rather than deferring reclamation and revegetation until operations are completed.

Cultural Heritage

Detailed cultural resources surveys of the Ruby Hill Project area have been completed and submitted to the BLM, State Historic Preservation Office, and Advisory Council on Historic Preservation. A Programmatic Agreement has been established among Homestake, the BLM, the State Historic Preservation Office, and the Advisory Council of Historic Preservation. The Programmatic Agreement provides for mitigation of adverse impacts to significant cultural resources. Mitigation measures have included data recovery and protection of sites that have been found to be eligible for nomination to the National Register of Historic Places.

During construction, Homestake also will have a qualified individual inspect and/or monitor surface disturbing activities in the vicinity of any identified, un-mitigated significant cultural resource. Monitoring and inspection of proposed mitigation activities will occur on a regular basis and include consultation with the BLM Archaeologist. A cultural resources education program for construction workers and employees will be implemented to acquaint personnel with laws protecting cultural resources.

Land Use Authorizations and Access

Prior to disturbing any bench mark, section, or corner monument, Homestake will advise the BLM and describe plans to protect or reference them. Witness corner surveys will be provided by Homestake to protect existing monuments as required by state and BLM surveying procedures.

There are many routes to access public lands near the project. Though direct access through the project will be eliminated, alternate routes are currently available. Project access will be from U.S. Highway 50, west of Eureka. This will minimize the amount of heavy truck and vehicular traffic through Eureka as most mine deliveries will arrive from U.S. Highway 50, west or Highway 278, north.

Vibration Monitoring Program

Homestake will design and conduct the Ruby Hill blasting program to minimize impacts to the Town of Eureka and its residents. Blasting will be conducted during daylight hours only. In addition, Homestake has completed a survey of selected buildings in Eureka to determine their pre-operation condition. This survey has been coordinated with appropriate county officials. Crack monitors used in the survey will be left in place for future reference. Homestake will operate vibration monitors at the company office in downtown Eureka and at the mine pit. If blasting-related vibrations greater than 0.25 inch per second are detected at the company office, the blasting program will be modified to eliminate the potential for adverse effects to historic buildings in Eureka. Homestake will, after consultation with property owners and the State Historic Preservation Office, take appropriate

measures to eliminate any blasting related impacts as necessary. Homestake will coordinate any needed mitigation with property owners and the appropriate Federal, state, and county agencies.

Studies conducted by Golder Associates, Inc., in support of the EIS, have documented the pre-development condition of historic buildings, and test blasting/vibration analyses have demonstrated that blast-induced vibration will not be measurable in Eureka. Additionally, Golder is developing a blasting program for the Ruby Hill Project that will address blast design, blasting methods, and vibration monitoring.

Homestake will design and monitor blasting operations to ensure that threshold noise and vibration levels are not exceeded.

Noise

Homestake will cooperate with Eureka County and the Eureka County School District to minimize mine noise when noise-sensitive activities are scheduled to take place at the Eureka County Fairgrounds and High School. Mining activities in the pit and on the waste rock dumps can be scheduled to avoid these time periods. By working on pit or dump faces that are not in line-of-sight to the Fair Grounds or High School, noise propagation will be minimized.

Environmental Monitoring Plan

The goal of the environmental monitoring plan is to ensure that the project is conducted in a manner that will prevent unnecessary and undue degradation of the environment. A key objective will be to protect the beneficial uses of groundwater in the vicinity of the Ruby Hill Project. Routine monitoring will be conducted of the process fluid management system, including the heap leach, process plant, and crushing, grinding, agglomeration facilities. A Preliminary Environmental Monitoring Plan is presented in the Plan of Operations. This plan will be updated following completion of detailed designs and will incorporate any additional monitoring requirements.

Employee Environmental Education Program

In an attempt to help reduce potential impacts to the environment, Homestake will implement an employee orientation course in environmental awareness. This program will be designed to acquaint employees with the project area environment and will be included in the required safety training program for all new employees. The objectives of the Environmental Education Program are:

- Familiarize employees with the local, state, and Federal laws regarding wildlife, hunting, land use considerations, and general environmental concerns.
- Familiarize employees with the day-to-day general operations of the project so that everyone is acquainted with the safe use of reagents and chemicals, and with their cleanup procedures. This part of the program will be closely coordinated with the safety program and will include training as required by the Spill Prevention, Control, and Countermeasures Plan, and the Emergency Response and Contingency Plan.
- Ensure employees are aware of their responsibility to protect cultural resources of the project area.

While on the job, all employees will be made aware of the stringent environmental protection measures associated with the mining operation and the procedures that must be followed to comply with these measures.

Mitigation and Monitoring

All practicable means to avoid or minimize environmental harm from the selected alternatives have been adopted. There were no measures identified to reduce or avoid environmental harm that were not selected to be part of this decision. All mitigation will be implemented and enforced.

The operation will be monitored by the BLM under the inspection and enforcement procedures according to 43 Code of Federal Regulations 3809.

The operator will have a quality assurance/quality control program established for the construction of the ore processing facilities as outlined in the State of Nevada water pollution control permit. The final reports will be submitted to the BLM after construction is completed.

The following mitigation measures and monitoring requirements were developed from the analysis contained in the Ruby Hill Project EIS. This Record of Decision expressly incorporates each of these mitigation measures and monitoring requirements.

Air Quality

The Ruby Hill Mine currently has an ongoing program for monitoring particulate matter concentrations at the existing facilities. Homestake is expected to continue monitoring ambient concentrations of particulates as well as meteorology at the mine site.

Air quality permits issued by the Nevada Division of Environmental Protection will require Homestake to control emissions, including fugitive emissions, from sources at the mine site due to mining activities. Homestake will apply all air pollution controls specified in its air quality permit to reduce emissions during construction and operation of the mine (Nevada Administrative Code 445B.365).

Issue: Dust generated by mining activities would affect residents in the surrounding area, including Eureka and Diamond Valley.

Measure 1: Homestake will establish an advisory group of interested parties to address issues that are of concern to the public. The group will include Homestake, agencies, and citizens. These issues include noise, dust, blasting vibrations, and visual impacts. This group is intended to function as a clearing house for public concerns, so that they can be brought to the attention of Homestake as quickly as possible for corrective actions. Homestake has agreed to work with the group throughout the life of the project to identify areas where monitoring for dust is needed and to develop additional mitigation that will address impacts that may not be fully identifiable until mining activities actually begin. Monitoring information that is collected by Homestake will be available to the group for their review and consideration in suggesting additional mitigation. Homestake will review all suggested mitigation, considering feasibility, effectiveness, and cost and advise the group as to which measures will be implemented, implemented with modification, or not implemented (along with the reason for this decision). Homestake will obtain any necessary Federal, state, or local permits

for all agreed-upon mitigation. The objectives for the group are to minimize impacts of the project on the community and facilitate Homestake's interaction with the public.

Paleontology

Issue: Disturbance of significant fossils.

Measure 1: If potentially significant fossils, such as vertebrate fossils, are discovered during mine development, operations, or reclamation, all mining activities in the vicinity of the discovery will cease. Homestake will contact the BLM's Battle Mountain Field Office to determine the steps necessary for dealing with the fossils.

Water Quality and Quantity

If groundwater inflow is encountered during mining, and is of sufficient volume that the potential for a pit lake exists, Homestake will prepare a pit lake study. The pit lake study will be used to determine if the pit lake will violate Nevada Division of Environmental Protection regulation NAC 445A.429. This study would address the two main compliance issues of NAC 445A.429 (Gaskin 1996): 1) Would the pit lake degrade groundwater quality, and 2) would the pit lake affect human, avian, or terrestrial life. In addition, if groundwater inflow is encountered and the potential for a pit lake exists, an environmental impact statement may be required to evaluate impacts, inform the public, and guide mitigation.

Wildlife and Fisheries Resources

Issue: Disturbance of breeding raptors within 0.5 mile of the proposed project development areas.

Measure 1: In the event that project initiation would occur during the nesting season for raptors (March 15 through July 15), a raptor survey would be conducted prior to disturbance to determine if any breeding raptors or active nest sites occurred within 0.5 mile of the proposed disturbance areas. If occupied territories or active nest sites were located, the BLM and Nevada Division of Wildlife would be contacted. Appropriate mitigation measures would be developed with the agencies, which could include nest avoidance, establishing buffer areas during nesting, moving the nest site, or erecting new nest platforms. Any subsequent mitigation measures would be conducted in accordance with the guidelines established by the Migratory Bird Treaty Act.

Issue: Loss of migratory birds, nests, or young due to project implementation.

Measure 2: Removal of migratory bird habitat on undisturbed lands in the Proposed Action area is discouraged between April 15 through July 15 to protect nesting birds, particularly neotropical migrants attempting to nest in the project area. Should removal of habitat need to occur during this period, Homestake will coordinate with the BLM and Nevada Division of Wildlife to implement a mitigation option to this constructional constraint period, which will include breeding bird surveys. Breeding bird surveys could be conducted within the proposed disturbance areas during the breeding season and prior to site disturbance to document any occupied territories or active nest sites that

will be affected by project implementation. Homestake will then coordinate with the BLM and Nevada Division of Wildlife to develop appropriate mitigation measures in accordance with the Migratory Bird Treaty Act, which will depend on the species potentially affected, nest location, topography, and season.

Special Status Species

Issue: Loss of active and inactive ferruginous hawk nest sites and disturbance of breeding ferruginous hawks within 0.5 mile of the proposed development areas.

Measure 1: Homestake is coordinating with the BLM and Nevada Division of Wildlife to mitigate the long-term loss of the three ferruginous hawk territories, including six nest sites, from mine development. A number of studies have been conducted in Utah, Colorado, and Wyoming (Apple 1995; Call and Tigner, No Date; Craig 1996; Hallowed 1996; Holmes 1994; Olendorff 1993; Schmutz et al. 1984; Stalmaster 1988, 1996; Stroh and Dabbs 1996; White and Thurow 1985) that have moved active and inactive ferruginous hawk nests and erected artificial structures for hawk use. Many of these studies documented high success rates for ferruginous hawk nesting on the relocated nests or artificial structures.

Based on these studies, a total of six artificial nest structures will be erected to the west of the mine area on BLM-managed land, and four of the six natural nests that would be indirectly impacted by the Proposed Action will be removed in early 1997, prior to the ferruginous hawk breeding season. The locations chosen for the six nest structures were determined, based on the extent of the existing breeding territories, proximity to disturbance areas, topography, existing vegetation (i.e., interface between the pinon-juniper and sagebrush grassland habitats), view of adjacent foraging habitats, and proximity to other ferruginous hawk territories.

Artificial nest structures were determined to be a better mitigation option, as opposed to constructing nest platforms in existing trees, since suitable juniper trees were limited within the three breeding territories that were located an appropriate distance (minimum of 2,000 feet) from proposed disturbance areas. In addition, artificial structures are more stable in the long term than topped junipers, and structures can provide attractive nest sites to hawks. Ferruginous hawks have successfully nested on artificial structures (Schmutz et al. 1984; Stalmaster 1988; Olendorff 1993), particularly in habitats with an adequate prey base.

Nest construction is following methods outlined in Olendorff (1993), Apple (1995), and Call and Tigner (no date). Nest placement will parallel the orientation, aspect, and appearance of those removed from the project area. Nest placement also has taken into account that ferruginous hawks typically require larger buffer areas during periods of low prey availability (White and Thurow 1985).

Homestake will monitor the artificial nest structures and the remaining natural nest sites (including the two territories, encompassing four nest sites, located outside of the projected area of disturbance) for 5 consecutive years, beginning with the 1997 breeding season (March through August). In addition to recording any hawk activity associated with the six artificial nest structures and five remaining natural nest sites, monitoring also will include general searches within the project area to determine if breeding ferruginous hawks have established new natural nests in the vicinity of the mine. If nest sites remain active or occupied during the first 5 years, this would suggest that

the hawks have adapted to project activities and further monitoring would cease. Information pertaining to hawk occupancy or nest failure will be coordinated with the BLM and reported annually to both the BLM and Nevada Division of Wildlife.

Issue: Indirect effects to bat hibernacula, nursery colonies, or other roosting concentrations due to mine development.

Measure 2: Homestake has coordinated with the BLM, Nevada Division of Wildlife, and Great Basin bat experts to identify shafts and adits that would likely support roosting bats both within and outside of the zone of impacts identified for the Proposed Action. Based on field surveys conducted in August and September 1995 and January 1996, additional surveys and exclusions were conducted in August and September 1996. The purpose was to identify mine workings that likely support roosting bats and exclude bats from the underground workings that would likely be impacted by the Proposed Action, as discussed in Section 3.10.2.1 of the Final EIS. A number of openings associated with the Holly Mine and Holly Extension were sealed with chain-link fencing and 1-inch chicken wire to allow bat egress and discourage bats from reentering the mine shafts and adits that may be impacted by the project. This wire placement also maintains air circulation that is often critical to supporting the appropriate climate for specific roost sites connected with these sealed underground openings. This approach theorized that bats would then relocate to other underground openings prior to the winter hibernation period.

Short-term management will include maintaining a double layer of wire covering for the two shafts located at the base or toe of the Holly Waste Rock Dump during the life of the mine and the wire currently sealing the drift between the Holly and Bullwhacker Mines, 430 feet below the ground surface. Following mine closure, these workings may be re-opened, and the wire covering could be removed to allow bats to reoccupy the roost sites, since they represent high quality habitat for the *Myotis* and *Corynorhinus* that occur in the area. All other openings that were sealed with wire during these exclusion activities are not considered high value habitat and will be permanently sealed to prevent entry of bats.

Bat gates will be installed by Homestake over two specific mine entrances into the historic Bullwhacker Mine as recommended by bat biologist, Dr. Patricia Brown. This measure will ensure public safety, while securing habitat for bats roosting in the Bullwhacker and associated workings and providing habitat to bats that may have been displaced from the Holly Complex prior to sealing. The bat gates will be designed not to impede air flow into the shafts and adits and will be installed during the appropriate time of year. A door will be installed in a minimum of one of the gates to allow researchers to enter the underground openings for subsequent population surveys. The bat gates will be inspected regularly to ensure their integrity.

Underground openings and historic mine workings that may support roosting bats will be monitored by Homestake. Monitoring will be implemented in the warm season at the surface and in the winter below the surface. Surface monitoring will occur once per year during the first several years of the mining operation. At that time, monitoring frequency will be evaluated based on monitoring results to that date. It will be critical for the surface monitoring to occur at the same time of year each year. Mid August is the preferred time to conduct the surface monitoring as adults and juveniles will be counted. Winter monitoring for hibernating bats will occur in January. Winter monitoring will be conducted every other year to minimize disturbance to hibernating bats that could occur while monitoring. If monitoring indicates an upward trend in numbers of hibernating bats, monitoring could be reduced to once in every 3 to 5 years.

Monitoring will continue beyond the operational phase of the mine, through completion of reclamation. During mine closure, a determination will be made regarding re-opening any of the mine workings that were sealed as part of the bat mitigation.

Homestake will coordinate the above mitigation and monitoring with the BLM, bat biologists, Nevada Division of Wildlife, and the Nevada Division of Minerals.

Issue: The area that will be disturbed by the West Waste Rock Dump has not been surveyed for the presence of Pygmy rabbits.

Measure 3: Homestake will survey the West Waste Rock Dump footprint for the presence of Pygmy rabbits prior to conducting any surface disturbing activities in this area. Depending on survey results, mitigation prior to any disturbance in this area may be required.

Land Use Authorizations and Access

Issue: The open pit will be 0.7 mile from the town of Eureka and could pose a safety hazard to adults and children who may be using Public Land between the town and mine.

Measure 1: Homestake will install a chain-link security fence around the ultimate perimeter of the pit following pre-stripping activities. The design for the fence will be developed in consultation with the BLM. At mine closure, the fence will be left in place and maintained indefinitely, and the safety berm (as described in Section 3.11.2.1 of the Final EIS) will be constructed outside the chain-link fence.

Visual Resources

Issue: The proposed waste rock dumps will create moderate to high contrasts with forms and lines, and low contrast with textures found in the characteristic landscape, in views from the County Fairgrounds.

Measure 1: Placement of waste rock on the top of the waste rock dumps will be performed to create irregular top surfaces that will reduce the impact of straight line geometrics. Prior to trial planting and seeding, slopes of the waste rock dumps will be ripped along the contours with bulldozers and "moonscaped" to provide relief on the otherwise uniform waste rock faces. Plans for placement of rock and moonscaping will be developed on a site-specific basis for the East and West Waste Rock Dumps and will be reviewed with the BLM prior to implementation.

Issue: The proposed waste rock dumps will generate moderate to high contrasts with lines and colors found in the characteristic landscape in views from key observation points 1, 2, and 3.

Measure 2: Trial plantings of piñon and juniper seedlings that will occur along the waste rock dumps will be placed along west and north facing slopes in a random fashion with clusters that closely mimic woody vegetation patterns of the natural landscape to the degree possible. Evenly spaced plantings of seedlings shall be avoided. Planting plans for the East and West Waste Rock Dumps will be reviewed with BLM prior to implementation.

Issue: The East Waste Rock Dump will continue to exceed VRM Class III management guidelines during the life of the Proposed Action as a result of its sheer mass (form) when viewed from key observation points 1 and 2.

Measure 3: Approximately 10 million tons of the 35 million tons of waste rock proposed for the East Waste Rock Dump will be placed within the West Waste Rock Dump area instead. This measure will limit the East Waste Rock Dump to 25 million tons and result in a total of 35 million tons of waste rock being placed in the West Waste Rock Dump. The East Dump footprint and the overall dump height will be reduced.

Issue: Outdoor night lighting of facilities at the proposed mine will attract the attention of south-bound motorists on State Highway 278 and motorists traveling east on U.S. Highway 50.

Measure 4: Outdoor night lighting at the Ruby Hill Mine will be shielded and directed downward where possible.

Issue: Construction of the East Waste Rock Dump will affect the visual quality of the area for residents of Eureka and Diamond Valley, as well as tourists who travel along Highway 50.

Measure 5: Homestake will establish an advisory group of interested parties to address issues that are of concern to the public. The group will include Homestake, agencies, and citizens. These issues include noise, dust, blasting vibrations, and visual impacts. This group is intended to function as a clearing house for public concerns, so that they can be brought to the attention of Homestake as quickly as possible for corrective actions. Homestake has agreed to work with the group throughout the life of the project to identify areas or view points where impacts to visual resources are of particular concern and to develop additional mitigation that will address impacts that may not be fully identifiable until mining activities begin. The group will consider impacts and suggest additional mitigation. Homestake will review all suggested mitigation, considering feasibility, effectiveness, and cost and advise the group as to which measures will be implemented, implemented with modification, or not implemented (along with the reason for this decision). Homestake will obtain any necessary Federal, state, or local permits for all agreed-upon mitigation. The objectives for the group are to minimize impacts of the project on the community and facilitate Homestake's interaction with the public.

Cultural Heritage

The procedures for evaluation and mitigation of impacts to cultural heritage resources documented in the proposed project area have been determined in consultation among the BLM, Homestake, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation, and are outlined in the Programmatic Agreement, which is on file at the Battle Mountain District of the BLM. The Programmatic Agreement allows the BLM to determine effect based upon the mutually agreed upon guarantee of identification, evaluation, and mitigation of cultural resources in the proposed project area pursuant to Section 106 of the National Historic Preservation Act and implementing regulations (36 Code of Federal Regulations 800). As directed by the Programmatic Agreement, a treatment plan for mitigation of sites that would be directly effected under the Proposed Action has been finalized and implemented, field work is complete, and analysis and report preparation are in progress.

Issue: Indirect impacts to cultural heritage resources on project lands from project-related activities.

Measure 1: Homestake will limit employee access to known archaeological sites, educate employees as to the significance of cultural resources and their vulnerability, and implement a strict management policy restricting casual collecting of artifacts from project lands.

Issue: Impacts to traditional use site CrNV-63-6546 from project-related activities.

Measure 2: Homestake will avoid directly impacting this site. If the site cannot be avoided, the BLM will be contacted, consultations with the appropriate Native American groups will be initiated, and additional mitigation will be implemented.

Social and Economic Values

Issue: Potential impacts to the Eureka County infrastructure from increased employment.

Measure 1: Homestake will coordinate with Eureka County and the Eureka County School District if substantial increases in employment levels are expected.

Noise and Blasting Vibrations

Issue: Noise from mining operations is likely to be audible at nearby residences and within the town of Eureka, although noise levels are expected to remain below levels recommended by the U.S. Environmental Protection Agency for the protection of public health and welfare.

Measure 1: Noise mitigation procedures shall include use of quiet model drills, coatings in the beds of haul trucks to reduce noise resulting from loading and dumping, and the scheduling of blasting to avoid times of greater sensitivity for potential receptors (generally between 7:00 p.m. and 7:00 a.m.). Temporary berms or barriers shall be used to reduce excessive noise when appropriate.

Issue: blasting as a result of the Proposed Action has a very small potential to result in ground vibrations that could damage buildings within the Town of Eureka.

Measure 2: Homestake will monitor ground vibration within the Town of Eureka throughout the duration of blasting activities at the mine site to identify whether mining operations are resulting in ground acceleration in excess of 0.25 inch per second. If such vibrations are detected as a result of mining operations, Homestake will notify appropriate Federal, state, and local agencies and review and modify blasting practices immediately to avoid further ground vibration in excess of 0.25 inch per second.

Issue: Noise from mining activities will disturb residents in the surrounding area, including Eureka and Diamond Valley.

Measure 3: Homestake will establish an advisory group of interested parties to address issues that are of concern to the public. The group will include Homestake, agencies, and citizens. These issues include noise, dust, blasting vibrations, and visual impacts. This group is intended to function

as a clearing house for public concerns, so that they can be brought to the attention of Homestake as quickly as possible for corrective actions. Homestake has agreed to work with the group throughout the life of the project to identify areas where monitoring for noise or blasting vibrations is needed and to develop additional mitigation that will address impacts that may not be fully identifiable until mining activities begin. Monitoring information that is collected by Homestake will be available to the group for their review and consideration in suggesting additional mitigation. Homestake will review all suggested mitigation, considering feasibility, effectiveness, and cost and advise the group as to which measures will be implemented, implemented with modification, or not implemented (along with the reason for this decision). Homestake will obtain any necessary Federal, state, or local permits for all agreed-upon mitigation. The objectives for the group are to minimize impacts of the project on the community and facilitate Homestake's interaction with the public.

Public Involvement

A Notice of Intent to prepare an EIS for the Ruby Hill Project was published in the Federal Register on July 13, 1995. Two public scoping meetings were held for the EIS, one on August 7 and one on August 9, 1995, in Eureka and Reno, respectively. The public scoping period for the EIS closed on September 5, 1995. The scoping comments were summarized and included in the EIS Preparation Plan. The following are the key scoping issues for the Ruby Hill Project.

- Vibration from blasting affecting historic buildings in Eureka.
- Additional medical facilities necessary for Homestake personnel.
- Future mine expansion.
- Effects of sulfide ore on groundwater quality.
- Effects on groundwater aquifers from well pumping.
- Impacts to Eureka schools from increased worker population.
- Housing availability for Homestake personnel.
- Amount of dust generated by the project.
- Proposed frequency and schedule for blasting.
- Height of proposed waste rock facility.
- Possible devaluation of neighboring private property.
- Noise levels from mine operations.
- Options for access through the mine site for hunting or ranching.
- Impacts to tourism from mining activities.
- Response to hazardous material spills.

The BLM prepared a brief newsletter summarizing the project and the status of the EIS. The newsletter was distributed to the individuals on the BLM's EIS mailing list in March 1996.

On August 8, 1996, the BLM filed the Draft EIS with the U.S. Environmental Protection Agency (EPA), and the Draft EIS was distributed for review and comment to individuals, organizations, and agencies on the BLM's mailing list. The EPA published notice of the filing in the Federal Register on August 16, 1996. The comment period for the Draft EIS was 60 days, beginning on August 8, 1996, and ending on October 8, 1996. During this public comment period, the BLM conducted two public meetings in Eureka and Reno (September 17 and 19, respectively) to discuss and accept comments on the Draft EIS. Several individuals presented verbal comments to the court reporter,

and transcripts were made and responses to the substantive verbal comments were included in the Final EIS.

In addition to the comments received at the public meetings, the BLM received 43 letters addressing the Draft EIS during the 60-day public comment period. All letters were reviewed, and comments needing a response were identified. Responses were provided in Chapter 4.0 of the Final EIS to clarify the contents of the Draft EIS, modify or correct the Draft EIS, or provide additional information in the Final EIS. Comments that did not require one of these responses but may be relevant to the BLM's ultimate decision regarding the Ruby Hill Project were acknowledged. All comments have been reviewed and considered by the BLM in determining the agency preferred alternative for the proposed project.

On December 24, 1996, the BLM filed the Final EIS with the EPA, and the Final EIS was distributed for a 30-day availability period to individuals, organizations, and agencies on the BLM's mailing list. The EPA published notice of the filing in the Federal Register on January 3, 1997. The 30-day availability period for the Final EIS began on January 3, 1997 and ended on February 3, 1997.

Plan of Operations Approval

Mine Plan N64-95-001P Approved

Based on the Plan of Operations and the Record of Decision for the Ruby Hill Project EIS, approval of the Plan of Operations is granted. Approval does not imply granting of rights-of-way for the powerline and water line. Approval for these components of the Ruby Hill Project will be granted separately. The mitigation measures and monitoring requirements associated with the Proposed Action as described in the EIS and Record of Decision must be implemented as an integral part of the surface operating plan. In addition, the environmental protection measures outlined in the Plan of Operations and the Record of Decision will be implemented and enforced. All required Federal, State, and local government permits must be in place before operations commence.

In accordance with the 1990 Nevada Division of Environmental Protection-USDA Forest Service-USDI BLM Memorandum of Understanding, this office received notification from the Nevada Division of Environmental Protection on January 15, 1997, that the Plan of Operations is consistent with their regulations.

Based on a review of the reclamation cost estimate submitted by Homestake Mining Company for the Plan of Operations, this office has determined the total bond amount to be \$7,071,200.00 for the 696 acres of total possible surface disturbance. The BLM's Nevada State Office accepted a bond for this amount from Homestake Mining Company on February 3, 1997.

To maintain the chain-link security fence around the open pit after mine closure, a self-sustaining surety fund will be established by Homestake that can be accessed by both the BLM and the State of Nevada. The fund mechanism will be established by the BLM and the Nevada Division of Environmental Protection. Homestake will deposit the necessary funds prior to mine closure. The BLM will determine the annual cost of maintaining the fence at the project site and will receive concurrence from the State of Nevada. The BLM will then determine the total cost for establishing an interest-bearing account that is sufficient to generate income to maintain the fence in perpetuity. The state or the BLM may hold and access these funds, as necessary, to hire third-party contractors to maintain the fence.

As part of the Programmatic Agreement between the Advisory Council on Historic Preservation, the Nevada State Historic Preservation Officer, the BLM, and Homestake, a surety in an amount sufficient to cover the remaining post-fieldwork costs associated with the treatment plan for mitigating effects to cultural resources is needed. The amount of this surety is \$100,000.00 and must be provided to the BLM within 30 days of the signing of this decision.

The complete and final Plan of Operations for Homestake Mining Company's Ruby Hill Project (case file number N64-95-001P), submitted in accordance with BLM regulations 43 Code of Federal Regulation 3809, was received in the BLM's Battle Mountain Field Office on December 13, 1996.

The proposed operations will occur on public lands administered by the BLM, Battle Mountain Field Office, in MDM, T. 19 N., R. 53 E., Sections 3, 4, 9, 10, 11, 12, and 14, and T. 20 N., R. 53 E., Sections 32, 33, and 34. The Plan of Operations proposes up to 696 acres of disturbance related to the development of a single open pit mining operation and associated facilities in Eureka County,

Nevada. Potential environmental impacts associated with the Plan of Operations were analyzed in EIS NV64-EIS96-33.

The Implementation of the Ruby Hill Project will create the following surface disturbance:

Facility	Public Land	Private Land	Subtotal
	Acres	Acres	Acres
Open Pit	88	0	88
Berm Setback	34	0	34
Process and Ancillary Facilities	57	0	57
Overburden Rock Dumps	334	3	337
Heap Leach Pad/Solution Ponds	84	0	84
Fresh Water Pipeline Road	5	3	8
Haul Roads	4	0	4
Main Access Road	9	0	9
Miscellaneous Access Roads	3	0	3
Growth Medium Stockpiles	45	0	45
Diversion Channels	3	1	4
Soil Borrow Source	<u>23</u>	<u>0</u>	<u>23</u>
Total	<u>689</u>	<u>7</u>	<u>696</u>

As requested by the Nevada Department of Transportation, there will be a change to the location of the Ruby Hill Project main access road from that which is described in the Final EIS. The main access road will now intersect Highway 50 at the intersection of Highway 278; then proceed southwest to the section corner common to T. 20 N., R. 53 E., Sections 33 and 34, and T. 19 N., R. 53 E., Section 3; then proceed southeast to the mine area. BLM will be constructing a highway fence along highway 50 during the summer of 1997. Homestake will need to provide and install a cattle guard at the intersection of the Ruby Hill Project main access road and this fence. BLM recommends open range signs be placed along the main access road until this fence is constructed. BLM also recommends that Homestake place speed limit signs along the main access road.

Homestake shall supply the BLM and the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation, with copies of all applicable environmentally- and/or regulatory-related correspondence. When conducting the waste rock and overburden testing program during project operations, Homestake must comply with BLM Instruction Memorandum No. 96-79, *Acid Rock Drainage Policy for Activities Authorized Under 43 CFR 3802-3809*.

Approval of the Plan of Operations will not now nor in the future serve as a determination of the ownership or the validity of any mining claim in which it may relate. Approval of the Plan of Operations in no way implies the economic viability of the operation. Any modification to the Plan of Operations must be coordinated with and approved by the Authorized Officer. Surface occupancy related to the Plan of Operations is reasonably incidental to the mining operation.

Appeals

Operator

The operator (Homestake Mining Company) has the right to appeal this decision to the Nevada State Director, Bureau of Land Management, in accordance with 43 Code of Federal Regulations 3809.4. If the operator chooses to exercise this right, the appeal, and a statement of reasons and any arguments presented to justify reversal or modification of this decision, must be filed in writing at the following office: Bureau of Land Management, Battle Mountain Field Office, P.O. Box 1420, Battle Mountain, Nevada 89820. The appeal and the statement of reasons must be filed within 30 days after the date of receiving this decision. The appellant has the burden of showing that the decision being appealed is in error. This decision will remain in effect during the appeal unless a written request for a stay is granted. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or by other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

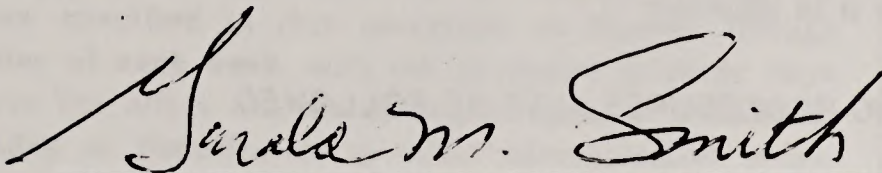
1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Others

If a party other than the operator is aggrieved by the approval of the Ruby Hill Project Plan of Operations, the decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 Code of Federal Regulations, Part 4 and Form 1842-1 (attached). If an appeal is made, a notice of appeal must be filed at the Bureau of Land Management, Battle Mountain Field Office, P.O. Box 1420, Battle Mountain, Nevada 89820, within 30 days after the date that this decision has been issued. The appellant has the burden of showing that the decision being appealed is in error.

An appellant may file a petition (request) (pursuant to regulation 43 Code of Federal Regulations 4.21) for a stay (suspension) of the effectiveness of this decision during the time that the appeal is being reviewed by the Interior Board of Land Appeals.

Record of Decision and Plan of Operations Approval (N64-95-001P / NV64-EIS96-33):



Gerald M. Smith
Battle Mountain District Manager

FEB 03 1997

Date

One (1) attachment:

Form 1842-1, *Information on Taking Appeals to the Board of Land Appeals*

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL Bureau of Land Management
Battle Mountain District
P.O. Box 1420
Battle Mountain, NV 89820

SOLICITOR
ALSO COPY TO Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room W-2215
Sacramento, CA 95825-1890

3. STATEMENT OF REASONS . . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR
ALSO COPY TO Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room W-2215
Sacramento, CA 95825-1890

4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))

SUBPART 1821.2--OFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

* * * * *

